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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,621	11/30/2001	Masato Takahashi	3404/OK075	4928

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805 Third Avenue  
New York, NY 10022

EXAMINER
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HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/998,621

Applicant(s)

TAKAHASHI ET AL.

Examiner

Robin A. Hylton

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Claim Objections***

1. Claims 1,3-8 and 12 are objected to because of the following informalities: the preamble of the claims clearly set forth the claimed invention as the sealing element. However, the structural relationship between the sealing element and a fitting element and/or a fitted element creates confusion with respect to the claim limitations. The claims are considered to be drawn to the sealing element only. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. Claims 1,3-8, and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. An obliquely protruding portion is set forth in claim 1 in both subparagraph 3 and subparagraph 5. There is only one obliquely protruding portion disclosed in the specification and the drawings. This is new matter rejection.

3. Claims 1,3-8, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

The structure of the sealing element is not clearly set forth in the claims. Two obliquely protruding portions are set forth in claim 1 (subparagraph 3 and subparagraph 5), but only one obliquely protruding portion is disclosed in the specification and drawings. Additionally, it is unclear from which end of the sealing element the flexible protruding part and the coupling feature extend in that only the sealing element is claimed and not the structure of the fitted

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element and the fitting element. It is suggested the language be modified to clearly set forth the sealing element structure wherein only the sealing element is the claimed invention.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1,3-8, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimizu (JP Publication No. 57-34141).

The sealing element comprises an endless portion 4, a coupling feature 1, and a flexible protruding part 6, or 7, for sealing a fitted element 13 and a fitting element 10. It is noted the claims are considered to be drawn to the sealing element only.

***Claim Rejections - 35 USC § 103***

6. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art container depicted in figures 1 and 2 of the instant invention in view of Hyobu and Shimizu.

The prior art container teaches a sealing element having a non-obliquely aligned sealing element housed in a compartmentalized inner wall of a fit-holding portion. The prior art container does not teach the sealing element is obliquely arranged, a coupling feature having a projection on the endless portion of the sealing element, or positioning grooves on an underside of the container body.

Hyobu teaches it is known to provide a container body similar to that of the prior art container depicted in figures 1 and 2 of the instant application with positioning grooves on an underside of the container body.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of positioning grooves on an underside of the container body of the prior art container depicted in figures 1 and 2 of the instant application. Doing so allows the container body to be aligned and supposed by other structure.

Shimizu teaches it is known to provide a sealing element obliquely protruding from an endless portion thereof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of obliquely extending the sealing element from the endless portion of the sealing element. Doing so allows for a more hermetic seal between the container body and door during pressure changes within the container.

Regarding the tapered end of the protruding pad, the prior art teaches tapering the protruding part to narrow at the distal end.

#### ***Response to Arguments***

7. Applicant's arguments filed September 26, 2004 have been fully considered but they are not persuasive.

Applicant is reminded that the use of open transitional phrases allow for more structure and/or function of the structure to be present in the prior art elements than in the claimed invention. Applicant argues the sealing element of the prior art is a "two-directional seal" while that of the instant invention is a "one-directional" seal. The structure of the prior art is the same as that which is claimed. Although the prior art seal may allow for curvature and bending in more than one direction does not make the claimed instant invention non-obvious.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a "one-directional" seal) are not recited in the rejected claim(s). Although the claims are interpreted in

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light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

**Conclusion**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

10. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

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I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-9306 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner works a part-time schedule and can normally be reached on Monday - Friday from 9:00 a.m. to 1:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (571) 272-4549.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148 or may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH  
December 8, 2004

  
Robin A. Hylton  
Primary Examiner  
GAU 3727